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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,404	02/01/2002	Charles J. Call	MESO0045	3726

7590 04/05/2004

LAW OFFICES OF RONALD M. ANDERSON
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BELLEVUE, WA 98004

EXAMINER

ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,404

Applicant(s)

CALL ET AL.

eb13

Examiner

Lyle A Alexander

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-14, 16, 25-28, 30-31, 43-44, 47-59, 64-66, 69-75, 78-83 and 88 is/are rejected.
- 7) ☒ Claim(s) 9-11, 17-24, 29, 32-42, 45, 46, 60-63, 67, 68, 76, 77 and 84-87 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Applicants 1/21/04 remarks were convincing that the art cited in the 7/17/03 Office action failed to teach a triggering means associated with a first particle detector that if the appropriate condition were met a second detector was enabled capable of identifying the type of particles present. Upon updating the search the following new reference was found that is relevant to the instant claims. This Office action will replace the 7/17/03 Office action.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-8, 12-~~14~~-16, 25-28, 30-31, 43-44, 47-59, 64-66, 69-75, 78-83 and 88 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Daugherty et al.

The effective filing date of the instant application is considered 11/13/01. The Office considered earlier application 09/775,872 and USP 6,363,800 and did not find earlier support for the claimed "triggering sampler".

Daugherty et al. teach a system and method to detect bio-hazardous-sized particles in, on and around mail and subsequent decontamination. Paragraphs [0007], [0010] and [0029] all describe a system that first screens for particles consistent with bio-hazardous materials. If these particles are found there is "triggering" mechanism that further samples and analyzes what the particles are to determine if they are a hazard. This has been read on the claimed (a) a housing..., (b) a triggering sampler and (c) a detecting sampler Paragraph [0030] specifically teaches use of negative pressure. Paragraph [0038] specifically teaches use of a HEPA filter. Daugherty et al.

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teaches detection of particle size which can accomplish the claimed function of determination the particle being biological or not (e.g. the method of intended use is of no patentable moment with respect to the pending apparatus claims as long as the apparatus claims have the ability to perform the claimed method).

Allowable Subject Matter

Claims 9-11,17-24,29,32-42,45-46,60-63,67-68,76-77 and 84-87 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-87 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lyle A Alexander
Primary Examiner
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